

REMARKS/ARGUMENTS

The present amendment is being filed under a Certificate of Mailing. Claims 6, 14, 20-22, 24-27 and 29-31 remain pending in the present application. Claims 6 and 14 have been amended.

§112 Rejection

Claims 6, 14, 20-22, 24-27 and 29-31 were rejected under §112 as failing to comply with the written description requirement. Claims 6 and 14 have been amended to delete the “conical” language. Instead, the outer periphery of the first portion is described in both claims as including an angled wall. Support for this limitation can be found on page 15, line 14 through page 16, line 5. Therefore, this rejection is believed to be overcome.

§103 Rejection

Claims 14, 27 and 29-31 were rejected as being unpatentable over EP 0992225 (“Wack”). Independent claim 14 has been amended to recite that the first component includes angled walls. Furthermore, claim 14 has been amended to recite that the second and third components slidably engage the first component along the angled walls such that as said angled wall is moved downwardly, the second and third components are pushed outwardly. Wack does not disclose such angled walls. To the extent that the enlarging portions 14, 16, 18, 20, 22, 24 of Wack are in sliding engagement with the stem 10, they are not in sliding engagement with the angled wall.

Furthermore, it is the Applicants’ belief that such engagement is not a simple matter of design choice. By having the second and third components slidably engage the first component along the angled wall, the second and third components are advanced outwardly as the first component is pushed down into the stem. This design allows the second and third components to move out toward the bone, compacting as they are moved. Therefore, claim 14 and its dependents are believed to be allowable.

Claims 6, 20-22 and 24-26 were rejected as being unpatentable over Parhofer, et al (DE 3630069) in view of Termanini (US Patent No. 4,237,875). Claim 6 has been amended to recite that the first component includes an angled wall and that the second and third components slidably engage the first component along said angled wall. Parhofer does not disclose such an arrangement. Neither does Termanini. Termanini

discloses a groove (3) and protrusions (8), but the groove and protrusions are not structured so that as a first component is moved in a downward direction, the second and third components move outwardly. Such an action provides the advantages discussed above in connection with claim 14. Therefore, claim 6 and its dependents are believed to be allowable.

Conclusion

Should the Examiner have any questions, he is invited to contact Cindy Barnett at the below phone number. The Commissioner is hereby authorized to charge any additional fees which may be required in connection with the filing of this communication, by charging Account No. 10-0750/DEP5086/CKB.

For the above-described reasons it is respectfully submitted that the rejections of claims 6, 14, 20-22, 24-27 and 29-31 have been overcome and are currently in condition for allowance. Should the Examiner believe a telephone conference would be useful, the Examiner is invited to call the undersigned at 574-372-7332. Early Notice of Allowance is respectfully requested.

Respectfully submitted,

/Cynthia K. Barnett/

Cynthia K. Barnett
Attorney for Applicants
Reg. No. 48,655

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(574) 372-7332
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